

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
DEPARTMENT

WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT AND SITE DEVELOPMENT PERMIT NO. 41-0161(MMRP)
LA JOLLA MOBIL CARWASH
AMENDMENT TO PERMIT NO. 96-0112
PLANNING COMMISSION

This Permit, Amendment to Coastal Development and La Jolla Shores Planned District Permit No. 96-0112, is granted by the PLANNING COMMISSION of the City of San Diego to JOHN M. PERCIVAL, JOHN A. PERCIVAL, FRANCIS M. SMITH AND LAWRENCE W. PERCIVAL, Individuals/Owners and K.A. LA JOLLA, LLC, Permittee, pursuant to Sections 126.0701 and 126.0501 of the Municipal/Land Development Code of the City of San Diego. The 0.70 acre site is located at 2204 Torrey Pines Road at the convergence of Torrey Pines Road and La Jolla Shores Drive, in the 'V' (Visitor) zone of the La Jolla Shores Planned District Ordinance and within the boundaries of the La Jolla Community Plan area. The project site is legally described as a Portion of Pueblo Lot 1286.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner and/or Permittee to continue to operate an automobile service station with a mini-mart, a future free-standing restaurant and to add a 648 square-foot carwash facility to the gas station operations, described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A", dated October 18, 2001, on file in the Development Services Department. The facility shall include:

- a. A 2,735 square-foot restaurant; and
- b. An automobile service station, consisting of:
 - 1) Canopy covered fuel dispensing islands,
 - 2) A maximum 2,000 square-foot mini-mart structure,
- c) A free-standing, 648 square-foot carwash facility to operate only between 7:00 A.M. and 10:00 P.M.,
- d) The operation of the automobile service station portion of the project, shall be consistent with the definition of an automobile service station contained in the Municipal Code / Land Development Code. The following uses are permitted incidental to the sale of gasoline: cashier sales, sales of auto related products and services as defined in this permit/conditions, office, general storage, restrooms and utility space; and,

- c. Landscaping (planting, irrigation and landscape related improvements); and
 - d. Off-street parking facilities, and signage for each permitted use; and
 - e. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted Community Plan, California Environmental Quality Act guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this permit, and any other applicable regulations of the Land Development Code in effect for this site.
1. Construction, grading or demolition must commence and be pursued in a diligent manner within 36 months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within 36 months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the Municipal/Land Development Code requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
 2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this permit be conducted on the premises until:
 - a. The Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the office of the San Diego County Recorder.
 3. Unless this permit has been revoked by the City of San Diego the property included by reference within this permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless otherwise authorized by the City Manager.
 4. This permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.
 5. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.
 6. Issuance of this permit by the City of San Diego does not authorize the applicant for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. Section 1531 et seq.)
 7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
 8. At all bus stops within the project area, if any, the applicant shall be responsible for installing sidewalk improvements where needed to comply with American with Disability Act

(ADA) requirements and in accordance with standards contained in the City of San Diego Street Design Manual.

9. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated October 18, 2001, on file in the Development Services Department. No change, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.

10. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded special rights which the holder of the Permit is obtaining as a result of this Permit. It is the intent of the City that the Owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner complies with all the conditions of the Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new Permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the Permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove or modify the proposed Permit and the condition(s) contained therein.

11. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the Coastal Commission of the Notice of Final Action, following all appeals.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

12. The owner/permittee, as a condition of this permit, shall implement the mitigation measures required to reduce potential adverse impacts in the area of noise and water quality, as identified in the Mitigation, Monitoring and Reporting Program of Mitigated Negative Declaration, LDR No. 41-0161.

ENGINEERING REQUIREMENTS:

13. Prior to the issuance of any building permits, the applicant shall assure, by permit and bond, the closure of the easterly existing driveway on Torrey Pines Road with restoration to full-height curb, gutter and sidewalk, the installation of a new 14-foot driveway and the removal of 2 above-grade pieces of metal located about 15 feet from the pedestrian ramp in the sidewalk along Torrey Pines Road, all satisfactory to the City Engineer.

14. Prior to building occupancy, the applicant shall conform to Section 62.0203 of the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or

replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

15. No fewer than 10 parking spaces shall be maintained on this site at all times (see condition No. 21).

16. Prior to the issuance of any building permit, applicant shall assure by permit and bond, installation of and "Do Not Enter /Exit Only" signs at the car-wash's exit driveway for the traffic on Torrey Pines Road, satisfactory to the City Engineer.

17. Prior to the issuance of any building permit, applicant shall assure by permit and bond, replacement of all abandoned driveways on Torrey Pines Road with full height curb, gutter and sidewalk, satisfactory to the City Engineer.

18. Prior to the issuance of any building permit, applicant shall assure by permit and bond, installation of signs on Ardath Road and La Jolla Shores Drive rights-of-way parking lots identifying the lots to be open to the public, satisfactory to the City Engineer.

19. The applicant shall close the car wash within 60 days of the notice from City of San Diego.

20. Prior to the issuance of the building permit for the carwash facility, the City Engineer shall ensure that waste water from the carwash will be discharged into the sanitary sewer system and not into the storm drain system.

PLANNING/DESIGN REQUIREMENTS:

21. No fewer than 10 of the 28 provided on-site/off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "A," dated October 18, 2001, on file in the Development Services Department. Parking spaces shall comply at all times with requirements of the Municipal/Land Development Code and shall not be converted for any other use unless otherwise authorized by the City Manager. Of the required spaces, 3 shall be provided for handicapped accessibility, one space for dispensing air and water and one space for emergency repairs (flat tires/replacing batteries, etc.).

22. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

23. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.

24. A topographical survey conforming to the provisions of the Municipal/Land Development Code may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this permit or a regulations of the underlying zone. The cost of any such survey shall be borne by the permittee.

25. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.
26. The carwash operating hours shall be limited to the hours of 7:00 A.M. to 10:00 P.M.
27. Sales of alcoholic beverages is not permitted in the mini-mart nor on the premises of the gasoline service station.
28. The restaurant, fuel pump islands and the mini-mart may operate from 6:00 A.M. to 12:00 midnight. During off hours, lighting shall be reduced to the minimum necessary for reasonable security requirements. Use of any amplified sound system or outdoor intercom system is prohibited.
29. Signaling devices to alert station attendants to entering vehicles shall be located and adjusted so as to cause no noise disturbances to adjoining properties.
30. All signage associated with this development shall be consistent with sign criteria established by the La Jolla Planned District Ordinance regulations. Pennants, portable signs and banners, shall not be permitted on the premises.
31. "No loitering" signs shall be placed in and around the mini-mart facility and "no loitering" shall be enforced by the Permittee, any lessee or subsequent owner.
32. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located. Outdoor lights may be mounted only to buildings, walls or on free-standing posts not to exceed a height of 14-feet. Energy conservation is encouraged.
33. The requirements of the County Health Department and the City of San Diego Fire Department for storage of all hazardous materials, including underground chemical storage, shall be met all times.
34. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
35. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
36. All uses, except storage and loading, shall be conducted entirely within an enclosed building. All trash and refuse shall be stored within an area enclosed by a wall at least six feet high. Wall material shall match the exterior of the main building. Doors to the area shall be closeable and constructed of solid materials. Refuse shall not be visible from outside the enclosed area.
37. Automobile repairs shall be limited to fixing flat tires or charging batteries. No merchandise or supplies shall be stored or displayed outdoors.
38. No merchandise, material or equipment shall be stored on the roof of any building.

39. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.

40. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (Land Development Code Sec.) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked "Exhibit A".

41. When operations are discontinued at the automobile service station for a period approaching 24 months, the Permittee has the following options:

- a. Apprise the Development Services Department that the Coastal Development Permit/Site Development permit should be rescinded. In this case, all buildings and structures not conforming to the underlying zone/planned district regulations, including underground tanks, shall be removed.
- b. Redevelop the property as a service station through an amended Coastal/Site Development Permit, as set forth in the Municipal/Land Development Code.
- c. Resume use as a service station under this permit.

If none of the above options are taken by the Permittee, and operations remained discontinued beyond the 24-month period, the City may initiate proceedings to rescind the permit and require removal of the structures.

42. In the event that the gasoline sales service facility is abandoned or vacated for a continuous period of two years, the property owner shall cause to have all structures, buildings, signs and other related accessory uses related to the gasoline service station and other potentially hazardous conditions, removed from the premises. Underground fuel storage tanks shall also be removed from the premises or capped satisfactory to the Fire Department.

LANDSCAPE REQUIREMENTS:

43. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.

44. Prior to issuance of any construction permits for structures, complete landscape and irrigation construction documents consistent with the Landscape Standards shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibits 'A,' Landscape Concept Plan, dated October 18, 2001, and the Existing Landscape Plan, dated May 6, 1997, on file in the Development Services Department.

45. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.

46. The Permittee shall be responsible for the maintenance of all street trees and landscape improvements consistent with the Landscape Standards.

47. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within 30 days of damage or Certificate of Occupancy.

POSTING REQUIREMENT:

48. A copy of this permit shall be posted on the premises of the service station at all times and be available for viewing by any person or persons who may desire to see the document.

INFORMATION ONLY

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit/tentative map, may protest the imposition within 90 days of the approval of this development permit/tentative map by filing a written protest with the City Clerk pursuant to California Government Code 66020.

APPROVED by the PLANNING COMMISSION of the City of San Diego on October 18, 2001.

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REVISED04/27/01/zzb

ALL-PURPOSE CERTIFICATE

Type/Number of Document _____
Date of Approval _____

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

DPM Name, Development Project Manager

On _____ before me, **KEYBOARD**(NAME OF NOTARY), (Notary Public), personally appeared **DPM Name**, Development Project Manager of the Development Services Department of the City of San Diego, personally known to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Signature _____
KEYBOARD(Name of Notary)

ALL-PURPOSE CERTIFICATE

OWNER(S)/PERMITTEE(S) SIGNATURE/NOTARIZATION:

THE UNDERSIGNED OWNER(S)/PERMITTEE(S), BY EXECUTION THEREOF, AGREES TO EACH AND EVERY CONDITION OF THIS PERMIT AND PROMISES TO PERFORM EACH AND EVERY OBLIGATION OF OWNER(S)/PERMITTEE(S) THEREUNDER.

Signed _____ Signed _____
Typed Name Typed Name

STATE OF _____
COUNTY OF _____

On _____ before me, _____ (Name of Notary Public) personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____